

Compliance With the Laws on Conflict of Interest

Summary of the Conflict of Interest Laws

Post-Employment Restrictions and the
Exchange Executive

Financial Reporting

Executive Order 11222 and
Standards of Ethical Conduct for
Government Officers and Employees

The President's Commission on
Executive Exchange

The White House

Post Office Box 14179
Washington, D.C. 20044

To Presidential Exchange Executives:

In considering potential assignments for Exchange Executives, the staff of the President's Commission on Executive Exchange carefully screens out any assignments that may lead to a conflict of interest situation.

If a question exists, the potential for conflict is explored with counsel for both the private sector organization and Federal agency involved, and if necessary the Director of the Office of Government Ethics. If a question remains, the assignment is not made.

The designated ethics official of the host organization is asked to make continuing reviews of potential conflicts of interest. If at any time it is determined that a conflict appears to be developing, the Exchange Executive will be transferred to another assignment.

Exchange Executives should become familiar with Federal conflict of interest laws. Private sector executives entering Government service are subject to the same conflict of interest laws and regulations that are applicable to career Federal employees. The conflict of interest statutes continue to apply to a Federal employee while on leave-without-pay.

Study this document carefully and thoroughly. Should you become aware of a possible conflict-of-interest situation or of a situation which gives rise to the appearance of a conflict of interest, you must bring the matter to the attention of the staff of the President's Commission on Executive Exchange, and the Federal agency's designated ethics official or the private sector Legal Counsel.

Avoiding Conflicts of Interest

Following is a summary of the most important features of the system for regulating conflicts of interest in the Executive Branch of the Federal Government. This includes financial disclosure requirements, a summary of the conflict of interest statutes including post-employment restrictions, and standards of ethical conduct for Government employees. The Office of Government Ethics prepared this analysis in cooperation with the United States Department of Justice.

Financial Reporting by Presidential Exchange Executives From the Private Sector

Title II of the Ethics in Government Act of 1978 requires high-level Federal executives to file **public** statements of their financial interests. **This provision of the Act does not apply to Presidential Exchange Executives**, inasmuch as it limits such disclosures to officials at grade GS-16 and higher.

However, under the provisions of Executive Order 11222, Federal agencies may require employees below the grade of GS-16 to file **confidential** financial disclosure statements. A Presidential Exchange Executive will be advised by the designated agency ethics official of the Federal agency where he or she receives an assignment, to determine whether a confidential disclosure statement must be filed with the agency.

Summary of Conflict of Interest Statutes

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the sections of title 18 including the 1978 and 1979 amendments to the post-employment restrictions of section 207 of title 18 of the United States Code).

1. He/she may not, except in the discharge of his/her official duties, represent any other person before a court or Government agency in connection with a particular matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).
2. He/she may not participate personally and substantially in his/her governmental capacity in any matter in which he/she, his/her spouse, minor child, partner, organization in which he/she is serving as officer, director, trustee, partner or employee, or person with whom he/she is negotiating for employment has a financial interest (18 U.S.C. 208).
3. No former Government employee, after terminating Government employment, shall knowingly act as agent or attorney for or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other

person (1) to the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter such employee participated personally and substantially as a Government employee (18 U.S.C. 207(a)).

4. No former Government employee within two years after terminating employment by the United States, shall knowingly act as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party (3) if such matter was actually pending under the employee's responsibility as an officer or employee within a period of one year prior to the termination of such responsibility.

Presidential Exchange Executives should pay particular attention to the following statutory summary.

5. He/she may not receive any salary or supplementation of salary from a private source as compensation for his/her services to the Government. This does not prevent an Exchange Executive from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employee. Nor does it prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same, by a participant in the Executive Exchange Program on assignment with an Executive agency (18 U.S.C. 209).

(This summary is designed only to present an overview of statutory conflict of interest provisions. For additional information on Post-Employment Conflict of Interest, see 5 C.F.R., Part 737.)

Counseling is available by contacting the appropriate designated agency ethics official or the Office of Government Ethics, Washington, D.C. 20415, or call (202) 632-7642.

Standards of Ethical Conduct

Executive Order 11222 prescribes Standards of Ethical Conduct for Government Officers and Employees. Pursuant to this Order each Federal agency and department has issued standards of ethical conduct for their employees which meet certain minimum standards established by Executive Order 11222 and its implementing regulations.

All Presidential Exchange Executives are required to familiarize themselves with the standards of conduct of their hosting organizations, which will provide copies of regulations.

Standards of Ethical Conduct

Executive Order 11222

Prescribing Standards of Ethical Conduct for Government Officers and Employees

"By virtue of the authorities vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Part I—Policy

Section 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or advisor of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

Part II—Standards of Conduct

Section 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or any other thing of monetary value, from any person, corporation, or group which—

- (1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;
- (2) conducts operations or activities which are regulated by his agency; or
- (3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations coordinated and approved by the Office of Personnel Management, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children or spouse of Federal employees; (2) permitting acceptance of food and refreshment available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the government.

Section 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Office of Personnel Management and agency regulations covering conflict of interest and outside employment are observed.

Section 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

Section 204. An employee shall not use Federal property of any kind for other than officially-approved activities. He/she must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him/her.

Section 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

Section 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law."

**Acknowledgement of Receipt of
President's Commission on Executive Exchange
Statement on Compliance With the Laws on
Conflict of Interest**

Date _____ Location _____

To: Executive Director
President's Commission on Executive Exchange

I have received a copy of the following: (1) Summary of Conflict of Interest Laws, (2) Post-Employment Restrictions, (3) Financial Reporting and (4) Executive Order 11222.

I understand that during my appointment as a Presidential Exchange Executive, I will be subject to these Laws and Executive Order 11222. I further understand that although my appointment as a Presidential Exchange Executive will be carefully screened for purposes of insuring compliance, should I at any time become aware of a possible conflict-of-interest situation or of a situation which gives rise to the appearance of a conflict of interest, I should bring the matter to the attention of the official designated for giving advice and counseling on such matters and to the Commission office.

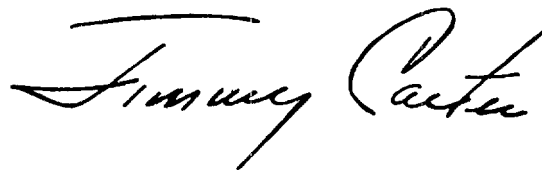
Signature _____

Print Name of Signer _____

Title or Position _____

Company or Agency/Department _____

The President's Executive Exchange Program enriches both the Government and private sectors by giving the most promising executives from each an opportunity to share their ideas and insights. This exchange of work experience is a valuable tool in helping business and Government understand the other's problems and needs so we can work together to build a strong and vibrant economy.

A handwritten signature in black ink, reading "Jimmy Carter". The signature is written in a cursive, flowing style with a prominent horizontal line above the first name.

Purpose of the Program

Leaders in business and Government recognize that a partnership between the two sectors is necessary to solve the nation's problems and capture its vast opportunities. The agenda of corporate executives now includes exceptional responsibility for coping with and relating to public policy. Too, Government officials seek to understand corporate operations and the contribution business can make to the development of social and economic policy. In the next several years, executives within both sectors must be highly dedicated men and women who are skilled in their own environment, but appreciate the purposes and responsibilities of the other sector as well.

Over a decade ago, the President's Commission on Executive Exchange was created to promote understanding and a better working relationship between the public and private sectors, and four Presidents have been committed to this special alliance.

The Program the Commission administers provides executives with a year of unique professional growth. Through an exchange of management expertise, it affords an intimate grasp of the mission, operations and decision-making process of the opposite sector. And the executives sharing in the exchange form a cadre of experienced men and women who can be called upon to serve on advisory boards and in higher appointive positions in future Administrations.

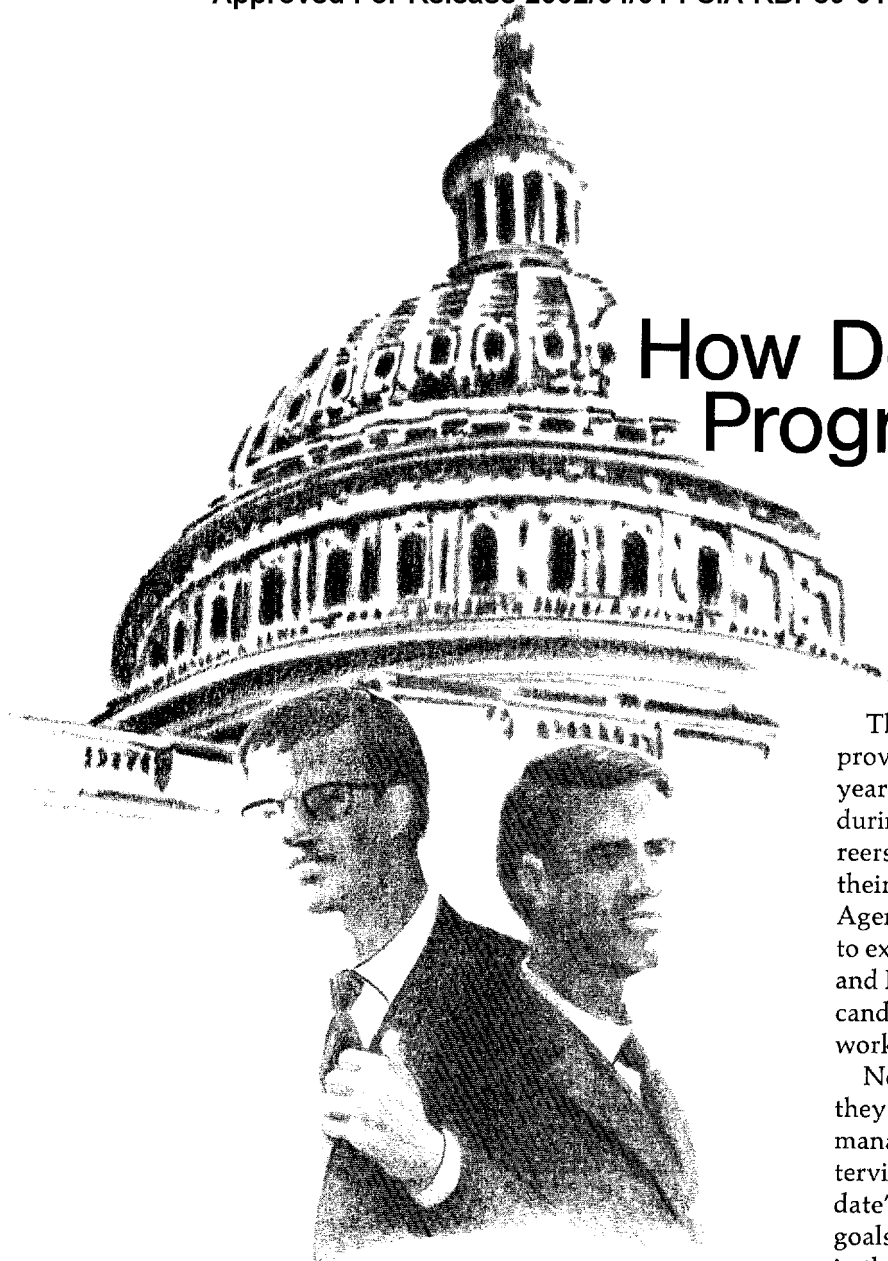
Presidential Exchange Executives are highly motivated members of the private sector and the Federal Government who are in the growth years of their careers. They have proven records of success and significant job accomplishment, high intellectual capability and demonstrated leadership. They are recognized as having the potential to reach senior policy-making positions within their companies or Executive Agencies.

Presidential Exchange Executives have varied backgrounds, ranging across the full spectrum of management. Those from the private sector may be disciplined in finance, marketing, law, international business, operations research or general management. Those from Government have executive experience in areas such as program management, economic planning, international relations, management information systems, industry analysis, urban planning and research and development.

Presidential Exchange Executives are the best that each sector has to offer. They are the future leaders and decision-makers of America, knowledgeable not only of the issues that involve them directly, but of the world in which they participate. They are Federal executives who come to understand the strengths of a free enterprise system, and private sector executives who gain a knowledge of Government in its administration of the public trust.

Who Are the Presidential Exchange Executives?





How Does the Program Work?

The President's Executive Exchange Program provides executives with the opportunity of a year's work experience in the opposite sector during the important middle years of their careers. Program participants are nominated by their Chief Executive Officers or Executive Agency Heads. Because the Program is designed to expose business executives to Government, and Federal executives to the private sector, candidates should have no significant experience working in the opposite sector.

Nominees are screened to determine whether they possess the qualities needed for continued management success. During this procedure, interviewers seek a strong indication of the candidate's long-range personal and professional goals, and an understanding of why participation in the Program would be a positive step toward implementing these goals. Nominees should also

recognize how their own career specialty relates to their sector's operation and objectives. Applicants are further reviewed for creativity in thought and action; for assertiveness and the ability to clearly express accomplishments; for the sophistication and maturity to interact in professional situations; and, for the initiative necessary to direct the work assignment to their own interests. Nominees are interviewed by Commission staff, by a past participant in the Program, and by a Member of the Commission.

After selection, appropriate assignments are identified for each executive and he/she is then interviewed by the potential host organizations. Executives are placed in mutually agreed upon positions, beginning in late August. Private sector executives are placed in Government positions in the Washington, D.C. area only, while Federal Executives assigned to industry may be located anywhere in the country, but usually at corporate headquarters.

During the program year, executives take leave without pay from the sponsoring organization, with salary paid by the host. Commission staff is responsible for salary negotiation on behalf of executives. Salary is consistent with compensation which executives would earn with the sponsor, adjusted for any anticipated cost of living or merit increase.

While working in the opposite sector, executives participate in a comprehensive education program, which is both national and international in scope, and which places the work experience in the broader perspective of the opposite sector.

At the end of the exchange year, executives return to their sponsoring organizations, to positions of comparable or greater responsibility.

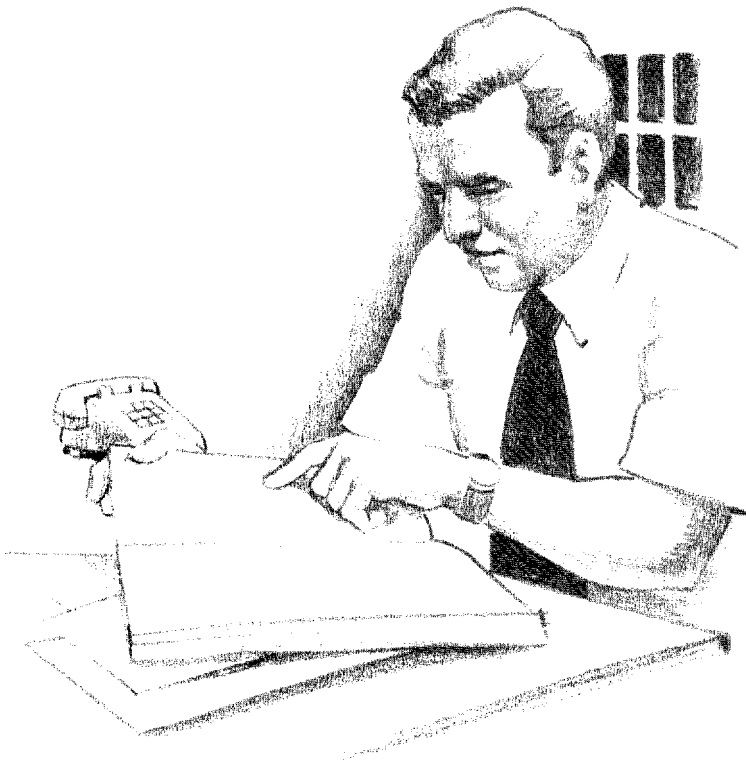
The Exchange Calendar

Nominations are due in early spring for participation in the President's Executive Exchange Program. The screening procedure, which begins soon after nominations are received, is usually complete in May.

The placement process then begins. Although each situation may be altered by individual considerations, executives are usually assigned by early August. September marks the start of the Exchange Year, with the Orientation Seminar conducted after Labor Day. The International Study Seminar is scheduled for February and the Year-End Conference for the first week in June.

Executives return to their sponsoring organizations during the summer months, on a date mutually agreed upon by the executive, the host and the sponsor, but not exceeding 365 days from the beginning of the assignment.

The Work Assignment



Presidential Exchange Executives hold positions of significant responsibility during the year and are expected to make measurable contributions to host organizations. Executives have specific assignments; most are staff positions, some are project-oriented. Executives report to senior officials of the host organization, and are exposed to and become involved in major policy decisions.

Additionally, executives interact with other groups and spheres of influence within host organizations and the host sector. For example, business executives working for Government have professional contact with other Federal Agencies, Congressional Committees and public constituencies. Federal executives working for business are exposed to Boards of Directors, stockholders, representative trade associations and consumers.

The work experience makes the best use of the individual's abilities and offers the executive a first-hand experience of the problems and challenges of a person permanently in the same position.

Near the end of the assignment, executives recount their exchange experience, detailing observations on methods for future business-Government interaction in the formation of public policy. This written report is for the benefit of the host, to be shared with the sponsor.

In past years, private sector executives have held these types of positions in Government:

- An Assistant Treasurer from a major oil company worked as a Special Assistant to the Assistant Secretary of the Treasury for Economic Policy, developing an agenda for the White House Conference on Balanced Economic Growth. He also performed an in-depth study on the reorganization of the data collection function and the cost center accounting system for that office.
- A manager of international purchasing for a large manufacturing company worked as the Executive Director for

Planning and Budget within the office of the Comptroller of the Currency, developing a new system of strategic planning for the office.

- A marketing manager from a large computer manufacturing company worked as Special Assistant to the Assistant Secretary of Energy for International Affairs, coordinating follow-up activities to the Secretary's trip to the People's Republic of China, in energy fields of high physics, oil, coal, renewables, and hydro-electrics. She also served as liaison for business and trade associations regarding China's energy programs and coordinated inter-Governmental activities for China's energy projects.
- The Manager of Investor and Shareholder Relations from a large chemical company served as Special Assistant to the Chairman of the Civil Aeronautics Board, assisting in the areas of manpower management, case scheduling, Congressional inquiries, budget formulation, and public participation in Board proceedings.
- A financial manager from a large forest products company worked as Special Assistant to the Secretary of Commerce, assigned to the Secretary's Business Liaison Task Force, responsible for tracking issues important to industry and presenting them to the Secretary for Departmental action.
- A senior operations review analyst from a large life insurance company worked as an Executive Assistant to the Assistant Attorney General for Administration, handling problems of organizational structure and expediting procedures.

Federal executives, assigned to positions in the private sector, have held positions such as these:

- A Foreign Service Officer, who last served as Chief of the Economic/Commercial Section of a U.S. Embassy in a Middle

Eastern country, was Special Assistant to an Executive Vice President of a major financial investment house, conducting analyses of the bank's activities in certain financial markets, and recommending measures and strategies for evaluating and improving performance in the investment banking, commercial banking and market making activities.

- A senior official of the Office of Scientific Intelligence at the Central Intelligence Agency was assigned to a major oil company, responsible for planning the firm's international telecommunications system; the project involved negotiations with European government officials and officers of multinational corporations on both technical and international trade regulation issues.
- A Physical Science Administrator from the General Services Administration worked for a manufacturing firm as a senior project specialist in corporate operations, reporting to the Director of Corporate Engineering and Reliability. The executive developed an engineering release system to standardize and unify the processes, methodologies and interactions employed by the firm's subsidiaries worldwide, in all facets of the business, from product conception to manufacturing.
- A Deputy Regional Commissioner of a branch of the Department of Health, Education and Welfare was assigned to a large multinational corporation. She revised the company policy on National Health Insurance, worked on a labor-management Task Force in developing strategies of health care cost containment, and developed the company's policy on welfare reform.



The Education Program

While the work experience is the major challenge of the exchange year, the education program provides a framework in which corporate strategy and public policy can be examined and pursued. The education program offers a rigorous analysis of issues relating to specific problems of business and of Government, and of the evolving pattern and conduct of business-Government relations.

Three major conferences bring together both private sector and Federal executives during the exchange year. Additionally, Federal executives spend a week at the Wharton School, while private sector executives meet for weekly discussions with key national leaders.

The education program seeks to integrate the philosophies of the private and public sectors and to provide a bridge between them for exchange executives, increasing their immediate value to hosts, and long-range worth to sponsors.

Orientation Seminar

This week-long conference, held in September, permits executives to acquire and evaluate information on issues and conditions related to both sectors, especially those which affect public policy and the regulation of business. Through briefings and discussion with senior Government

officials, Members of Congress and various business leaders, topics for executives from both sectors may include:

- Government regulation of business
- Taxation and the Congressional budget process
- Implications of energy and environmental policies on business
- Legislative matters affecting business
- Formation of U.S. economic policy.

The Seminar also details items of immediate and specific concern to the sector to which the executive is assigned. For example, Federal executives working in business will also hear presentations on and discuss:

- Corporate management and control
- Financial alternatives and the formation of capital
- Venturing a new product to the market place
- Unionism and consumerism.

Private sector executives working for Government will review a number of public issues, such as:

- Critical issues in national defense and foreign policy
- Efforts to improve government efficiency
- Business contributions to the effective solution of social problems.

The Wharton Conference for Federal Executives

This week-long seminar in December at the Wharton School of Finance and Commerce deals with "Constraints on Corporate Freedom," posed by Federal and local Governments, unions, consumers and other constituencies of the corporation. Through discussion with Wharton faculty and prominent business leaders, Federal executives explore topics such as:

- Public policy and its effect on corporations
- The Board's relationship to the corporation and corporate constituencies

- Taxation and its effect on capital formation
- The movement for participative management and unionism
- The effect of inflation on corporate economics
- The growing importance of the consumer movement.

Weekly Meetings for Private Sector Executives

Throughout the year, approximately two hours per week are allotted for informal, off-the-record meetings with Cabinet Officers, Agency Heads, Members of the Congress, the press corps and others, to introduce executives to the leaders of Government and those who influence them. In addressing critical current policies and regulations affecting business, a new subject area is discussed each month, such as:

- The press and its impact on government policy
- Domestic and international economic issues
- Consequences of government regulation of business
- Relations between nations
- Legislative priorities before Congress.

International Study Seminar

This two-week conference in February takes both private sector and Federal executives to Brussels, Paris, Bonn, and West and East Berlin, and prepares them to evaluate international conditions which may influence future decisions of their sponsoring organizations. Through discus-

sion with European heads of U.S. multinational corporations and foreign-owned entities, executives investigate Government controls of and practical operations of the international private sector in seeking capital, markets, management and workers.

Further, the seminar focuses on United States relations with the European Community and on economic, political and military alliances with the Community's member nations. In Brussels, executives meet with senior officials and Members of the Commission of the European Community to consider current topics of concern to the U.S. Government and U.S. business, such as:

- The European Economic and Monetary Union
- Effects of European Community's competition and antitrust policies
- Political and economic ramifications of multilateral and bilateral trade negotiations
- Consequences of enlargement of the Community to include other Nations.

Because the U.S. alliance with Western Europe and NATO forms a cornerstone of this nation's

foreign policy and foreign economic relations, it is essential that future senior executives know the important elements comprising those interests. These include the social and economic conditions and other factors which contribute to the stability and security in each country, thus affecting their relations with other nations and with domestic and foreign business. Executives confer with the leaders of NATO and with Ministers, sub-Cabinet officials and other experts within France, the Federal Republic of Germany and the city of Berlin to discuss:

- Forces within NATO and other military alignments which impact political and military affairs
- Cooperative solutions to international inflation
- International monetary situation/status of the dollar
- The climate for foreign investment, trade and other commercial ventures by U.S. multinational corporations
- International energy considerations
- Government/business/labor interaction in each political system.

Year-end Conference

This three-day conference in June gives executives the opportunity to reflect on and evaluate the exchange year. Through discussion with their colleagues from both sectors, and as directed by expert speakers, executives compare individual accomplishments and possibilities for individual management contributions to the sponsoring organizations. The conference also serves as a forum for discussion of future public policy and its effect on corporations and for alternatives for public and private sector cooperation.

Sponsoring A Presidential Exchange Executive

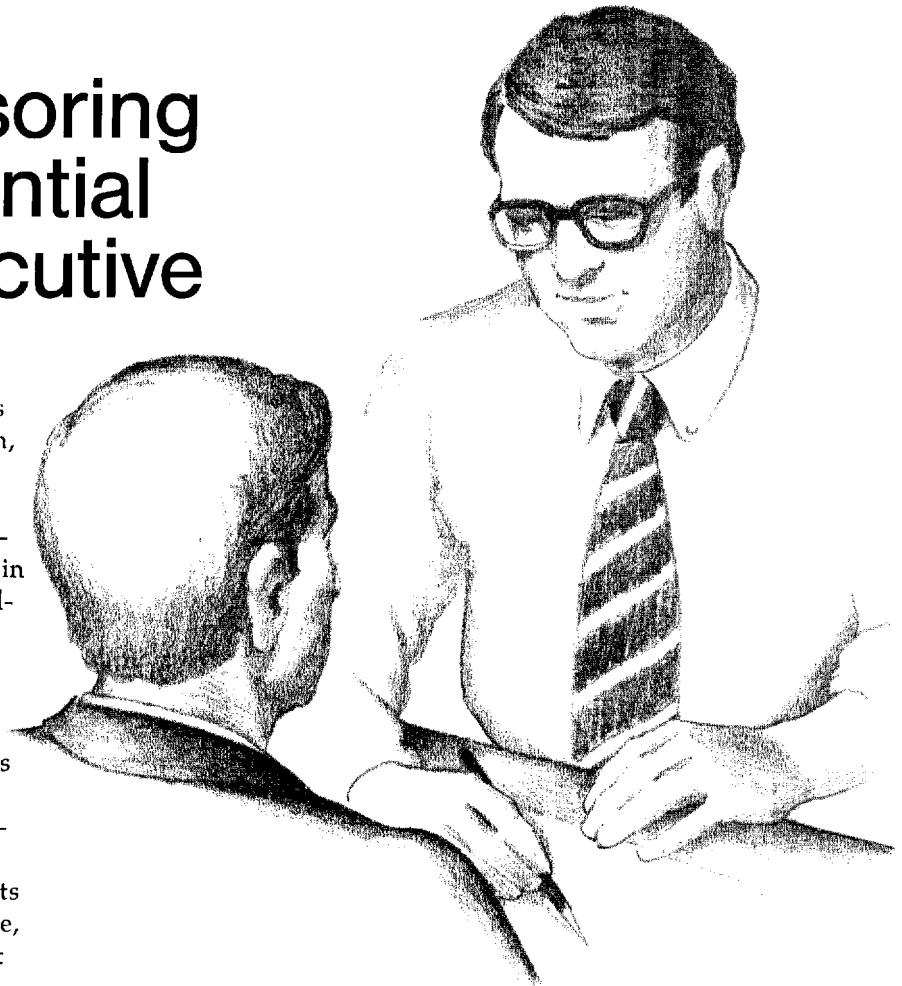
Corporate Chief Executive Officers and the Heads of Federal Agencies nominate candidates for the President's Executive Exchange Program, attesting to their high calibre and potential for advancement to senior positions within the organization. Sponsors are urged to select individuals who represent the best executive potential in the organization, and they are encouraged to adhere to the principles of equal employment opportunity. Nominations are due in the early spring for participation in the program year, beginning the following September.

If the candidate is selected, the sponsor incurs several obligations, including payment of a \$2,000 fee for a portion of the cost of the executive's participation in the education program. Sponsors normally continue those fringe benefits extended to other employees on leave of absence, such as health and life insurance and retirement plans. Bonuses may not be earned during the time spent in the President's Executive Exchange Program.

The sponsor should develop and execute a suitable plan for the executive's re-entry at the end of the exchange year. The anticipated position should recognize the value and potential of the exchange executive. Sponsors pay the cost of a return visit during the year to discuss re-entry.

The sponsor is bound by law to strictly adhere to all Federal and State statutes regarding conflict of interest, and should counsel the executive regarding the individual's responsibilities and need for ethical conduct.

An appropriate liaison within the sponsoring organization should be designated to work with the Commission staff and the executive throughout the program year.



Hosting A Presidential Exchange Executive

To employ a Presidential Exchange Executive, a responsible and challenging position should be defined. Some organizations have specific positions to be filled, while others prefer the process of interviewing several nominees, then structuring an assignment around the particular skills of the individuals selected.

The host organization pays a salary to the executive which is comparable to that earned prior to the assignment, and adjusted for anticipated merit and cost-of-living increases. (Fringe benefits, however, remain the responsibility of the sponsor.)

Hosts pay for travel and per diem expenses related to the education program. Hosts must

allow administrative leave for educational activities, including five days at the beginning of the assignment for the Orientation Seminar (depending on the start date of the work assignment); ten days in February for the International Study Seminar; and three days in June for the Year-End Conference. Federal executives working in business also spend a week at the Wharton School of Finance and Commerce in December, while Washington-based executives meet two hours each week for informal discussions. The executive should also be permitted to take up to three days of administrative leave for a visit to the sponsor to discuss re-entry. Executives are urged to take vacation only at the end of the exchange assignment.

The host should develop a plan to introduce the executive to appropriate senior officials of the organization, exposing the individual fully to the structure, to policy making and to policy makers.

To insure absolute avoidance of conflict of interest or the appearance thereof, the host organization must adhere to all Federal and State laws, counsel the executive concerning the individual's responsibilities, have the General Counsel review the candidate's background against the official position description to determine that no conflict of interest exists, and subsequently notify the Commission staff of this determination. Further, the host may not reassign the executive to new duties without prior review and approval of the Commission staff and legal counsel of the host organization.

The host is asked to cooperate with the Commission's request for semi-annual appraisal of the executive's performance. And, in keeping with the concept of the President's Executive Exchange Program, hosts may not extend offers of permanent employment to the executive, either during preliminary interviews or upon completion of the assignment.